

State of New Jersey  
Department of Labor and Workforce Development  
Board of Review

## MEMORANDUM

**To:** Cornelia Calderone, Chair, Joseph Sieber,  
Vice Chair, and Frank Serico, Member

**From:** Gerald Yarbrough, Executive Secretary  
Board of Review

**Subject:** Minutes of the March 1, 2006  
Board of Review Meeting

**Date:** March 7, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO  
CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, March 1, 2005 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in The Trenton Times and The Star Ledger. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, March 8, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair  
Mr. Sieber, Vice Chair  
Mr. Serico, Member  
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the, meeting were approved.

3. Old Business

(a) 93, 181

This matter was tabled due to technical problems.

4. New Business

(a) 67, 360

Ms. Gagliardo presented this case that involved a claimant who was employed during the same period in which she received unemployment benefits. The Appeal Tribunal had held the claimant liable to refund benefits and a fine as redetermined by the Deputy. The claimant was also

held disqualified from receiving benefits for a period of one year from the date of discovery. The Board noted there was a discrepancy between the wages listed by the Deputy and Appeal Tribunal. Also, there is a need to ascertain if the claimant informed the Division that she was employed. As a result, the majority of the Board voted to remand the case for additional testimony. Mr. Serico did not participate in the discussion or decision in this matter. Ms. Gagliardo will prepare the remand.

**(b) 78, 865**

Mr. Morley described this case that involved a claimant who was hired to work on a full-time basis. At times, the claimant worked less than full-time hours. At other times, no work was available. The Appeal Tribunal had held the claimant eligible for benefits for periods when no work was available, but ineligible when she worked less than full-time hours. After discussion, the Board noted that the decision was not consistent with Unemployment Insurance law and voted to reverse the Appeal Tribunal. Mr. Sieber will prepare the decision.

**(c) 96, 956**

As presented by Ms. Abrunzo, this case involved a claimant who was hired to work 20 to 22 hours a week.. The claimant requested the employer to reduce the amount of hours she worked and the employer complied with the request. The Appeal Tribunal had held the claimant ineligible for benefits from November 20, 2005 through November 26, 2005, December 11, 2005 through December 17, 2005 and December 25, 2005 through December 31, 2005 under N.J.S.A. 43:21-4(c), but eligible for other periods, subject to her earnings. After discussion, the Board noted that the claimant was not entitled to any partial benefits as she requested her hours be reduced. As a result, the Board voted to modify the Appeal Tribunal. Ms. Abrunzo will prepare the decision.

**(d) 95, 813**

As described by Ms. Abunzo, this case involved a claimant who was employed as a home health aide and voluntarily left work. The claimant earned eight dollars per hour and was hired to work forty hours per week. Her hours were reduced to three hours a day. The cost of transportation to work was twenty dollars per day. The Appeal Tribunal had held the claimant disqualified for benefit under N.J.S.A. 43:21-5(a). After discussion, the Board noted that the Appeal Tribunal's facts were lacking and the claimant had good cause attributable to the work for leaving. As a result, the Board voted to reverse the Appeal Tribunal. Ms. Abrunzo will prepare the decision.

(e) 95, 707

Mr. Maddow presented this case that involved a claimant who was employed as a warehouse supervisor and left work to accept work with a competitor of his employer. The claimant was unable to start work with the competitor on the designated date because of a contract held by the employer. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the record was lacking in regard to whether the situation in this case was consistent with the Gerber court case. As a result, the Board voted to hold a hearing for additional testimony. Mr. Sieber will conduct the hearing.

(f) 95, 912

Mr. Maddow described this case of a claimant who is an alien and did not have proof he was authorized to work. The Appeal Tribunal had held the claim filed as of October 16, 2006 invalid. The Board noted that the record was lacking regarding whether the Appeal Tribunal used the appropriate statute. As a result, the Board voted to remand the case for additional testimony. Mr. Maddow will prepare the remand.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

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Gerald Yarbrough  
Executive Secretary